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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/019,878

05/02/2002

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12/16/2003

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EXAMINER

LE, HOANGANH T

ART UNIT

PAPER NUMBER

2821

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/019,878

Applicant(s)

SAFAKHAH

Examiner

HOANGANH LE

Art Unit

2821



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 21, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-14 is/are rejected.
- 7) ☒ Claim(s) 4-7 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

### DETAILED ACTION

1. The amendment filed August 21, 2003 is acknowledged.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, are "mast stand" (line 3) and "common mast stand" (line 9) the same?

In claim 12, are "at least one arm" (line 4), "a plurality of arms" (line 8) and "said arm" (line 10) the same?

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by

Shriver (the US Patent No. 4,167,740, cited by Applicant).

The Shriver reference teaches in figures 1-8 a relay antenna mast for a cellular radio telecommunications system, the mast being characterized in that it comprises: a mast stand (C) ; at least one arm (D) pivotally mounted on the mast stand (C) and carrying at least one antenna (F); and means for locking the arm in a position in which the antenna(s) is/are in a high position (figure 1); the arm (D) being suitable, when the locking means are disengaged, for being tilted about its pivot axis (36) to a position in which at least one antenna is at height enabling it to be worked on by an operative at the foot of the mast. The arm (D) extends on either side of its pivot axis (36) and carries counterweight-forming means (45) on its branch opposite from its branch carrying the antenna(s). The counterweight-forming means (45) are adjustable in mass and/or in translation along the arm (figure 2). Figure 1 shows a plurality of antennas.

6. Claims 1, 8-10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bond (the US Patent No. 4,151,534, cited by Applicant).

The Bond reference teaches in figure 1 a relay antenna mast for a cellular radio telecommunications system, the mast being characterized in that it comprises: a mast stand (82) ; at least one arm (12) pivotally mounted on the mast stand (82) and carrying at least one antenna (66); and means for locking the arm in a position in which the antenna(s) is/are in a high position (figure 9); the arm (12) being suitable, when the

locking means are disengaged, for being tilted about its pivot axis to a position in which at least one antenna is at height enabling it to be worked on by an operative at the foot of the mast. Figure 9 shows a platform comprising a relay antenna mast and a protective guard rail 100. The antenna mast and the guard rail are carried on the top of a building. Figure 1 shows a plurality of antennas.

#### *Allowable Subject Matter*

7. Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is an examiner's statement of reasons for allowance: none of the cited art discloses a linkage comprising two elements, one of the elements carrying means for fixing a retaining device enabling the operative to control tilting of the arm.

#### *Response to Arguments*

9. Applicant's arguments filed August 21, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that Shriver and Bond do not disclose a mast for a cellular radio telecommunications system or at least one antenna of a cellular radio

telecommunication system, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Since Shriver and Bond do show all claimed structure, 102 rejection is proper.

### *Conclusion*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than

SIX MONTHS from the mailing date of this final action.

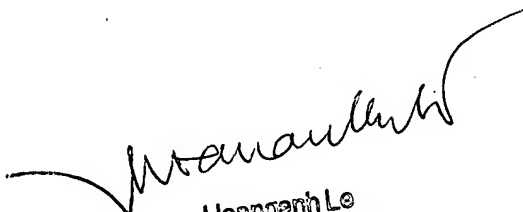
*Correspondence*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Hoanganh Le whose telephone number is (703) 308-4921.

12. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.

13. Papers related to Technology Center 2800 applications **only** may be submitted to Technology Center 2800 by facsimile transmission. Any transmission not to be considered an official response must be clearly marked "DRAFT". The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center Fax Center number is (703) 308-7722 or (703) 308-7724.

Hoanganh Le  
Primary Examiner  
Art Unit 2821  
December 10, 2003

  
Hoanganh Le  
Primary Examiner